

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Flagstar Bank, FSB,

Plaintiff,

v.

A-1 Mortgage Services, Inc.,

Defendant.

Case No. 10-11219

Hon. Sean F. Cox

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**OPINION & ORDER GRANTING DEFENSE COUNSEL’S  
MOTION TO WITHDRAW AS ATTORNEY OF RECORD**

Plaintiff Flagstar Bank, FSB (“Flagstar”) filed this action against Defendant A-1 Mortgage Service, Inc. (“A-1”) alleging breach of contract and negligent misrepresentation. The matter is currently before the Court on defense counsel’s motion to withdraw as attorney of record. For the reasons that follow, the Court shall GRANT defense counsel’s motion.

**DISCUSSION**

On February 17, 2010, Flagstar initiated this action against A-1 in Oakland County Circuit Court alleging breach of contract and negligent misrepresentation. Flagstar alleged damages of \$138,850.79 plus interest, attorney fees, and costs (Doc. No. 1).

On March 26, 2010, A-1 removed the case to this Court based on diversity of citizenship (Doc. No. 1).

On April 1, 2010, A-1 filed a motion to dismiss or transfer venue (Doc. No. 6). On June 17, 2010 the Court held a hearing on the motion, and on June 25, 2010, the Court entered an

opinion and order denying the motion to dismiss (Doc. No. 10).

Defendant's attorney, Kevin Plagens, filed this motion to withdraw on July 15, 2010. The motion states that Andrew Alfonso is the president and sole employee of A-1, and that he has requested Plagens to withdraw because of financial hardship. (Def.'s Motion at ¶ 5 & 7). The motion also states that A-1 is unable to pay its costs and attorney fees. (Def.'s Motion at ¶ 6).

Flagstar does not oppose the motion, but asks that any order allowing Plagens to withdraw contain the condition that A-1 must obtain new counsel within 30 days, or a default will be entered. (Pl.'s Resp. at p.1).

On September 21, 2010, the Court held a hearing on this issue. The Court permitted Andrew Alfonso to appear telephonically. At the hearing, Mr. Alfonso requested 60 days to obtain new counsel or to settle the case.

Only attorneys may represent corporations in federal court. *See* 28 U.S.C. § 1654; *United States v. 9.19 Acres of Land*, 416 F.2d 1244, 1245 (6th Cir. 1969); *Specialty Vehicle Acquisition Corp. v. American Sunroof Corp.*, 2008 WL 344546 at \*1 (E.D. Mich. Feb. 07, 2008). Accordingly, the Court shall GRANT defense counsel's motion to withdraw, and shall ORDER that A-1 must obtain new counsel prior to November 16, 2010. The Court will hold a status conference at **2:00 p.m. on November 16, 2010**. Further, A-1's counsel **MUST APPEAR at the November 16, 2010, status conference, or a default will be entered.**

#### CONCLUSION & ORDER

For the reasons stated above, the Court GRANTS defense counsel's motion to withdraw, and ORDERS that A-1 must obtain new counsel prior to November 16, 2010, and A-1's counsel

MUST APPEAR at the November 16, 2010 status conference, or a default will be entered.

IT IS SO ORDERED.

S/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: September 22, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 22, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez  
Case Manager